The Civil Court Order Index #067496/95 dated June 12, 1995 by Hon. Judge Bernard S. Greenbaum was eroneous when he dismissed Ally's action with prejudice, and Hon. Justice Posner in his May 17, 1996 order confirmed that this is a new action for damages and is not Collateral Estoppel or Res Judicata of the Action 5610/91. On P:192a App. W of WOC.

Hon. Justice Posner confirmed by Judgment Index #5610/91 dated January 19, 1996 that Ally was illegally evicted by the original owner Nazmoon Hassan and she was granted a money judgment of $3,000. On P:198a. App. Y of WOC

Hon. Justice Posner confirmed by order Index #21625/95 dated May 17,1996 that the defendants(Kishore and Palmour are confusing the prior action 5610/91 with this new action for damages. On P190a. App. V of WOC.

The Supreme Court Order Index #21625/95 dated November 13,1996 by Hon. Justice Posner was eroneous when he awarded the defendants Kishore and Palmour $500 in costs and sanctions claiming that Ally's conduct was frivolous in commencing separate actions for the same relief and for bringing on meritless motions when the other action Index#23087/95 was not for the same relief, as confirmed by Hon. Justice Lane on the action #23087/95 dated December 2, 1996. On P: 189a. App. U of WOC.

The Supreme Court Order Index#23087/95dated December 2, 1996 by Hon. Justice Lane confirmed that the action Index #21625/95and the action 23087/95 were not for the same relief whenhe consolidated both actions for joint trial andordered that each action shall retain its own Index # and separate

Notes of Issue shall be filed for each action. On P186a. App. T of WOC

The Supreme Court Order Index #21625/96 dated January 13, 1997 by Hon. Justice Posner was eroneous when he again sanctioned Ally $500 in cost and sanctions because she made a motion to stay the execution of the other order for $500, and she was stayed from any further proceedings in this action Index #21625/95 until she responds to Kishore and Palmour's Interrogatories, which she did serve but it was rejected. On P184a. App. S of WOC.

The Supreme Court Order Index #21625/95 dated May 28, 1997 by Hon. Justice Posner was eroneous when he dismissed with prejudice this action #21625/95 claiming that Ally has failed to comply with the orders of November 13, 1996 and January 13, 1997 when Ally did respond to Kishore and Palmour's interrogatories, but it was rejected. However according to this order Justice Posner only dismissed the action 21625/95 and not # 23087/95 for this action had its own Index #, and own Note of issue. On P: 182a. App. R of WOC.

The Supreme Court Order Index #23514/97 dated November 19, 1997 by Hon. Justice Arthur W. Lonschein was eroneous when he dismissed Ally's verified complaint by motion to dismiss and not by answer, and by saying that this claim as against the movant is clearly meritless, as it is settled that an attorney may not be held liable to a third party for acts done in the course of his representation of a client, in the absence of fraud, collusion, or malicious or tortious act, when the said defendant's intentional action are not only the existence of

actionable wrong but the wrong caused damages and he admitted that he wrongfully prepared an execution which caused Ally's eviction,and it is he (Mr.Graver) who wrote intentional tort on the Request for Judicial Intervention. On P:180a. App. Q of WOC.

The Supreme Court Orders Index #23514/97 dated November 23, 1998 by Hon. Justice Arthur W. Lonschein was eroneous when he granted at least 4 extensions of time to the New York City Sheriffs to answer the verified complaint and they never did. On P: 176a & 178a . App. O & P of WOC.

The Supreme Court Order Index #23514/97 dated November 23, 1998 by Hon. Justice Arthur W. Lonschein was eroneous when he sanctioned Ally $2,500 in costs for frivolous action when it was the said defendant who wrote intentional tort on the Request for Judicial Intervention and he did admit that he wrongfully prepared an execution which caused Ally's eviction. On P: 173a. App. N of WOC

The Supreme Court Order Index #23514/97 dated March 25, 1999 by Hon.Justice Arthur W. Lonschein was eroneous when he denied Ally's motion to Renew on the grounds of additional facts and laws not previously considered and said that it is deemed a motion to reargue, when the verse "as it is settled that an attorney may not be held liable to a third party for acts done in the course of his representation of a client,in the absence of fraud, collusion, or malicious or tortious act," was not a ground for dismissal. (2). It was the said attorney who wrote intentional tort onthe request for judicial intervention. (3).This attorney did admit that he wrongfully made an execution which caused Ally's eviction. On P: 172a. App. M of WOC.

The Supreme Court Memorandum and Judgment Index#23514/97 dated April 30, 1999 and August 19, 1999 by Hon. Justice Arthur W. Lonschein was erroneous when he granted sanctions of $5,000 in costs and attorney fees to the attorney defendant Graver when he never appeared for the hearing, and the Court also said that Ally's action was frivolous within the meaning of #130-1.1 of the Rules of the Chief Administrator of the Court when it was the said defendant who wrote intentional tort on the request for judicial intervention and he also admitted in the motion to dismiss that he wrongfully prepared an execution which caused Ally's eviction. The Court also said that $5,000 shall be sanctions, on account of the motion (to renew) as against the defendant City Sheriffs on whose behalf the City of New York was compelled to defend, when the motion was not against the City Sheriffs for they never answer the verified complaint, and Ally did ask the Court not to allow the City Sheriffs to appear in opposition because the record is reflecting continuous pattern of default and neglect and it will be an abuse of discretion as a matter of law to afford the City Sheriffs still another opportunity to appear in opposition. On P: 168a & 170a. App. K & L of WOC.

The Decision and Order Index #2001-0001 dated February 18, 2003, of the Supreme Court of the State of New York, Appellate Division by Altman, J.P. Smith, McGinity and Townes, jj., concur is erroneous when they affirmed the Judgment with costs and when they made their decision on the 1991 action (5610/91) when they said that the jury found that the plaintiff (Ally) was not wrongfully evicted, but the jury said that Ally was not constructively evicted, and Justice Posner confirmed that Ally was illegally evicted by Nazmoon Hassan the original owner of the building and she was already granted a money Judgment for that illegal eviction. This Court also said that a court previous-

ly dismissed two prior actions by the plaintiff seeking damages arising out of the eviction, and that the plaintiff commenced this action for the same relief, the action #23514/97 was commenced for the new wrongs which Justice Posner did confirmed in his order dated May 17,1996 Index #21625/95 when he said that the defendants (Kishore and Palmour) are confusing this new action for damages with the prior action(Index #5610/91) and this new action is not only against the plaintiffs Kishore and Palmour as in the 1991 Action but also against three new defendants Richard S. Graver, Sheriff Kerry J. Katsorhis and Deputy Sheriff Martello. However the Court said that plaintiff's remaining contentions are not properly before this Court on this appeal. On P:166a. App. J of WOC.

The Order ofthe State of NewYork Court of Appeals dismissed the appeal as of right without costs and said that no substantial constitutional question is directly involved and denied the motion for leave to appeal. On P:160a & P: 162a. App.H & I of WOC. The Index # on App. H & I are not the correct #'s.

The U. S. Eastern District Court Judgment, Civil Judgment and Memorandum and Order dated December 3,2003and November 24, 2003 by Hon. Judge Nina Gershon is eroneous when the Court dismissed plaintiff's verified complaint forlack of subject matter jurisdiction when(1). Plaintiff Ally's verified complaint with attached exhibits to prove the facts, was filed pursuant to Article III of the Constitution and the nature of the suit is Constitutionality Statutes, other Statutory Actions, and on the Basis of Federal Question Jurisdiction. On account of plaintiff's pro-se status, she was not sure what statute to file her action under, so she filed it under the U. S. Civil Statute of FPLR: U.S.C.A 26#2671; should read U.S.C.A. 28#2671, 18 #2111-2112; 18#1006; 28#547; 564; 566 and that plaintiff

seeks damages for the willful, illegal, fraudulent, intentional; collusion, conversion, deliberate; negligent, trespass malicious and tortious acts of the defendants by reason of the willful violation of Section 853 of the Real Property Actions and Proceedings Law, should have read by reason of the unreasonable seizure and not landlord and tenant violation because this action was not a landlord and tenant action, the defendant (Mr. Graver) himself wrote intentional tort on the Request for Judicial Intervention Index #23514/97. (2). A verified complaint is equivalent to affidavit of merit for the purpose of Summary Judgment. (3). Pursuant to U. S. C.A. 28#1331 The District Court shall have original jurisdiction of all civil actions arising under the Constitution Laws, or treaties of the United States. (4). Pursuant to U. S. C. A. 28#1343(a)(1)(2)(3): The District Courts shall have Original jurisdiction of any civil action authorized by law to be commenced by any person: (1): To recover damages for injury to his person or property, or because of the deprivation of any right or privilege of a citizen of the United States, by any act done in furtherance of any conspiracy mentioned in section 1985 Title 42; (2). To recover damages from any person who fails to prevent or to aid in preventing any wrongs mentioned in section 1985 of Title 42 which he had knowledge were about to occur and power to prevent. (3). To redress the deprivation, under color of any State Law, Statute, ordinance, regulation, custom or usage of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of Citizens or of all persons within the jurisdiction of the United States. On P: 1a; 4a; 5a. App. A; B & C of WOC.

The Order of the U.S. Court of Appeals affirmed the U.S. District Courts Judgment and denied the Petition for Rehearing En Banc. On P: 7a & 143a. App. D & F of WOC.

Petitioner Ally believe that it is very important that the U.S. Supreme Court grant the writ of certiorari and make the final decision in this action which may be of some help to others, and guide the lower courts in making a just decision in actions similar to this one.

Ally is respectfully requesting that this Court review all the Orders from the State Courts and the Federal Courts, and for the reasons above and other reasons, which may not be clear to her, since she is a pro-se, and grant the writ of certiorari in the name of Justice.

CERTIFICATION OF PRO-SE PETITIONER

I, Ackleema Ally the pro-se petitioner in this action hereby Certify that this petition for rehearing is presented in good faith and not for delay and that its grounds are limited to intervening circumstances of a substantial or controlling effect and to other substantial grounds not previously presented.

Respectfully Submitted

Ackleema Ally

APPENDIX A

CONSTITUTIONAL AND STATUTORY
PROVISIONS INVOLVED
Continued From P:159a. App.G. on P:145a of WOC

Pursuant to 28#1346: One of primary purposes of Subsec. (b) of this section and section 2671 et seq. of this title was to waive sovereign immunity of United States to tort suits in order to provide an orderly system for compensating those who were injured through the tortious acts of government employees committed in the course of their employment. Lepatourel v U.S.,D.C. Neb. 1978 463 F. Supp.264.

Pursuant to 28#2671 Whether a person whose negligent or wrongful act or omission is said to be the cause of an injury, is a federal employee within Federal Tort Claims Act, is to be determined by Federal law rather than by the law of the State. LeFevere v U. S., C.A 5 (Fla.) 1966, 362 F. 2d 352.

Pursuant to 28#2671: Federal Law and not State Law governed determination of question of whether member of National Guard was federal employee with Federal Tort Claims Act. Blackwell v U.S.,C.A.5 (La.) 1963, 321 F. 2d 96.

Pursuant to 28#2671: Whether a person allegedly causing the injury or loss was an employee of the government with in the meaning of Federal Tort Claims Act is a question of federal law, not state law. Sheff v U.S.,D.C. Cal. 1971, 325 F. Supp. 1082.

Fraud under the FTC requires intentional conduct. United States v Green, 35 F.Supp.12 (E.D.N.Y.1960).

Collusion is an agreement between two or more persons to defraud a person of his rights by the forms of law,or to obtain an object forbidden by law. It implies the existence of fraud of some kind, the employment of fraudulent means, or of law -ful means for the accomplishment of an unlawful purpose.

Malicious is a wrongful act intentionally done without legal justification or excuse, an unlawful act done willfully or purposely to injure another.

Tortious is used to denote the fact that conduct whether of Act or omission is of such a character as to subject the actor to liability, under the principles of the law of torts.

The Federal Government has generally waives its non tort Action immunity in the Tucker Acts, 28 U.S.C.A. #1346(a) (2) and its tort immunity in the Federal Tort Claims Act, 28 U.S.C.A. #1346(b), 2674. Most States have also waived immunity in various degrees at both the State and local government levels.

The federal, and derivatively,the state and local governments are free from liability for torts committed except in cases in which they have consented by statute to be sued e.g. Federal Tort Claims Act, State Tort Claims Act. Most States either by statute or court decision have abolished or greatly restricted the doctrine of sovereign immunity at both the State and levels.

Pursuant to U.S.C.A. 28#1346: Federal Tort Claims Act (FTCA) does not create federal substantive cause of action, but merely provides a remedy for state tort claims that

would otherwise be barred by sovereign immunity. Sumner v U. S., M.D.Tenn. 1992, 794 F. Supp. 1358.

The States are bound to provide compensation for takings of private property pursuant to the Just Compensation Clause of of the 5th Amendment as made applicable to the States through the Due Process Clause of the 14th Amendment. First English Evangelical Lutheran Church v Los Angeles County (1987).

Whether an interest is a right or a privilege, when it is intentionally denied, procedural due process must be afforded. Goldberg v Kelly (1970).

The key concept in defining property today is "entitlement" when the government recognizes that an individual is legally entitled to a benefit, it thereby creates an expectancy that the benefit will not be arbitrarily terminated. A property interest is created. The contract of lease support claims of "entitlement."

The first element for intentional infliction of emotional distress is whether the defendant's conduct was extreme and and outrageous. Davis v Household Finance.

Federal Tort Claims Act covers intentional Torts. Intentional Torts are "wrongful acts" within the meaning of Statute making the Act sole remedy for actions against U. S. for negligent or wrongful Act or omission of employee of Government. Duffy v U.S., C.A. 7(Ill.) 1992, 966 F. 2d 307.

Pursuant to CPLR 6216:1 : To levy on real property, the Sheriff (not the plaintiff) simply files a notice of attachment in the appropriate County Clerk's office. If the Sheriff for-

gets to do this, he is liable in damages to the plaintiff. Doran v Sheriff of Orange County, 1977, 57 A.D. 2d 605, 393 N.Y. S. 2d 785.

Pursuant to CPLR 6214: An officer attaching chattels or levying execution thereon is liable for his negligence in caring for them. Vangellow v Eastside Sav. Bank 1939,11 N.Y.S. 2d 982.

Willful and malicious misconduct is actionable under Federal Tort Claims Act; Congress has specifically provided that such Act shall apply to the intentional torts of federal law enforcement officers, including claims arising out of assault and battery. Hoston v Silbert, 1982, 681 F.2d 876, 220 U.S. App. D.C. 361, on remand 566 F.Supp. 1125.

Government may be sued on claim of trespass. Black v Sheraton Corp. of America, 1977, 564 F. 2d 531, 184 U. S. App. D.C.46.

United States could be held liable under the Federal Tort Claims Act for intentional infliction of emotional distress, which was not specifically exempted from general rule of liability and inclusion of which in law enforcement statutory proviso was not necessary to create sovereign liability for tort. Crain v Krehbiel, D.C.Cal.1977.443 F.Supp.202.

Claim against Government for intentional infliction of emotional distress is not excluded as matter of law from Federal Tort Claims Act. Sheehan v U. S., C. A. 9 (Cal.) 1990, 896 F.2d 1168.

District Court is not required to dismiss complaint alleging conduct which might fall within intentional tort exception to Federal Tort Claims Act,where conduct also supports claim for tort not within exception. Santiago-Ramirez v Secretary of Dept. of Defense, C.A.1 (Puerto Rico) 1993, 984 F. 2d 16.

Under Federal Tort Claims Act, federal court is to determine liability by applying state law that would apply to private individual under like circumstances. Faughnan v Big Apple Car Service, E.D.N.Y. 1993, 828 F. Supp. 155.

In action under the Federal Tort Claims Act, state law must be applied, making United States liable in same manner and to same extent as private individual under like circumstances. Lahren v U. S., D. C. N. D. 1977, 438 F. Supp. 919.

This section (28#2674) provides that United States shall be Liable to the same extent as a private individual under like circumstances evidence a congressional intent to have the United States treated like any other party in a tort suit. Dumansky v U.S., D.C.N.J. 1980, 486 F. Supp. 1078.

Pursuant to U.S.C.A. 28 #2674: This chapter and section 1346(b) of this rule are designed to provide remedy for persons injured through negligence of government employees when individual may be so liable under state law. U.S. v Browning, C. A. 10 (Utah) 1966, 359 F. 2d 937.